IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4610 of 2003 (O&M)

Date of Decision: 27.11.2007

Haryana State Electricity Board, now called Dakshin Haryana Bijli Vitran Nigam Limited. & Ors.

..Appellants

Vs.

Teja Singh

..Respondent

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.B.R.Vohra, Advocate,
for the appellants.

Mr.Ashwani Bakshi, Advocate,
for the respondent.

Vinod K.Sharma,J. (Oral)

CM No.6929-C of 2007

For the reasons stated in the application the order dated 13.8.2007 is recalled and the appeal is restored to its original number.

RSA No.4610 of 2003

This regular second appeal has been filed against the judgments and decrees passed by the learned courts below vide which the suit filed by the plaintiff-respondent for declaration with consequential relief of

injunction has been ordered to be decreed.

Plaintiff-respondent challenged memo. No.1590 dated 26.8.1997 vide which a demand of Rs.1,03,773.35P was raised against the Electric Connection No.K3/1102 SP installed at the premises/flour mill of the plaintiff. The demand was challenged on the plea that memo. was illegal, against law and fact, in violation of principles of natural justice and not binding on the plaintiff. Relief was also claimed for restoration of electric connection.

On appreciation of evidence brought on record learned trial court was pleased to decree the suit by observing that the impugned order was passed in violation of principles of natural justice as no notice was issued to the plaintiff respondent before raising demand notice. It was also held by the learned lower courts on appreciation of evidence that there was violation of instructions issued by the Haryana State Electricity Board in as much as the Junior Engineer without associating the Vigilance Inspector has inspected the meter which was not permissible as per the instructions Ex.D.7 brought on record. Learned courts below observed that as there was dispute of meter being defected the same was required to be inspected by the Electric Inspector which was not done which was in violation of section 66 of the Electricity Act. It was also observed by the courts below that evidence brought on record shows that no checking meter was installed to come to a conclusion that there was any tampering with the record.

This concurrent finding of fact is sought to be challenged by the learned counsel for the appellant on the plea that as it was the case of

theft the present suit was not competent as in that event the principles of natural justice were not required to be followed. However, this plea of the appellant cannot be accepted as the learned courts below have also recorded a finding that theft of the electricity was not proved.

Consequently, no ground is made out to interfere with the findings recorded by the learned courts below.

No question of law much less substantial question of law arises in this appeal for the consideration of this court.

Dismissed.

27.11. 2007 **(Vinod K.Sharma)**
rp **Judge**